

William S. Klein, Esq. (SBN 121792)  
 wklein@hopkinscarley.com  
 Robert A. Christopher (SBN 89035)  
 rchristopher@hopkinscarley.com  
 Tod C. Gurney (State Bar No. 199813)  
 tgurney@hopkinscarley.com  
 HOPKINS & CARLEY  
 A Law Corporation  
 The Letitia Building  
 70 South First Street  
 San Jose, CA 95113-2406

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**mailing address:**  
 P.O. Box 1469  
 San Jose, CA 95109-1469  
 Telephone: (408) 286-9800  
 Facsimile: (408) 998-4790

Attorneys for Plaintiff/Defendant/Third-Party  
 Plaintiff GLASFORMS, INC., a California  
 corporation

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

DONG AH TIRE & RUBBER CO., LTD.,  
 a Korean Corporation,

Plaintiff,

v.

GLASFORMS, INC., a California  
 corporation,

Defendant/Third-Party  
 Plaintiff.

v.

CTG INTERNATIONAL (NORTH  
 AMERICA) INC., an Indiana Corporation;  
 TAISHAN FIBERGLASS, INC., a  
 corporation organized under the laws of the  
 People's Republic of China,

Third-Party Defendants.

CASE NO. C 06-03359 JF (RS)  
 (Consolidated With Case No. C 06-  
 00213 JF (RS))

**STIPULATION AND ~~PROPOSED~~  
 PROTECTIVE ORDER**

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STIPULATION AND [PROPOSED] PROTECTIVE ORDER; CASE NO. C 06-00213 JF (RS)

1           1. PURPOSES AND LIMITATIONS

2           Disclosure and discovery activity in the above-entitled consolidated cases (collectively  
3 referred to hereinafter as the “Action”) are likely to involve production of confidential,  
4 proprietary, or private information for which special protection from public disclosure and from  
5 use for any purpose other than prosecuting this litigation would be warranted. Accordingly, the  
6 parties hereby stipulate to and petition the court to enter the following Stipulated Protective  
7 Order. The parties acknowledge that this Order does not confer blanket protections on all  
8 disclosures or responses to discovery and that the protection it affords extends only to the limited  
9 information or items that are entitled under the applicable legal principles to treatment as  
10 confidential. The parties further acknowledge, as set forth in Section 10, below, that this  
11 Stipulated Protective Order creates no entitlement to file confidential information under seal;  
12 Civil Local Rule 79-5 sets forth the procedures that must be followed and reflects the standards  
13 that will be applied when a party seeks permission from the court to file material under seal.

14           2. DEFINITIONS

15                 2.1     Party: any party to this Action, including all of its officers, directors,  
16 employees, consultants, retained experts, and outside counsel (and their support staff).

17                 2.2     Disclosure or Discovery Material: all items or information, regardless of  
18 the medium or manner generated, stored, or maintained (including, among other things,  
19 testimony, transcripts, or tangible things) that are produced or generated in disclosures or  
20 responses to discovery in this matter.

21                 2.3     “Confidential” Information or Items: information (regardless of how  
22 generated, stored or maintained) or tangible things that qualify for protection under standards  
23 developed under F.R.Civ.P. 26(c).

24                 2.4     “Highly Confidential – Attorneys’ Eyes Only” Information or Items:  
25 extremely sensitive “Confidential Information or Items” whose disclosure to another Party or  
26 nonparty would create a substantial risk of serious injury that could not be avoided by less  
27 restrictive means.

28                 2.5     Receiving Party: a Party that receives Disclosure or Discovery Material

1 from a Producing Party.

2 2.6 Producing Party: a Party or non-party that produces Disclosure or  
3 Discovery Material in this Action.

4 2.7. Designating Party: a Party or non-party that designates information or  
5 items that it produces in disclosures or in responses to discovery as “Confidential” or “Highly  
6 Confidential — Attorneys’ Eyes Only.” The parties anticipate subpoenaing records and other  
7 information from third parties that may be proprietary in nature. Non-parties are expressly  
8 entitled to produce information in this litigation subject to the protections of this order.

9 2.8 Protected Material: any Disclosure or Discovery Material that is designated  
10 as “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

11 2.9. Outside Counsel: attorneys who are not employees of a Party but who are  
12 retained to represent or advise a Party in this Action.

13 2.10 House Counsel: attorneys who are employees of a Party.

14 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well  
15 as their support staffs).

16 2.12 Expert: a person with specialized knowledge or experience in a matter  
17 pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert  
18 witness or as a consultant in this Action and who is not a past or a current employee of a Party or  
19 of a competitor of a Party and who, at the time of retention, is not anticipated to become an  
20 employee of a Party or a competitor of a Party. This definition includes a professional jury or  
21 trial consultant retained in connection with this litigation.

22 2.13 Professional Vendors: persons or entities that provide litigation support  
23 services (*e.g.*, photocopying; videotaping; translating; preparing exhibits or demonstrations;  
24 organizing, storing, retrieving data in any form or medium; etc.) and their employees and  
25 subcontractors.

### 26 3. SCOPE

27 The protections conferred by this Stipulation and Order cover not only Protected Material  
28 (as defined above), but also any information copied or extracted therefrom, as well as all copies,

1 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by  
 2 parties or counsel to or in court or in other settings that might reveal Protected Material.

#### 3 4. DURATION

4 Even after the termination of this litigation, the confidentiality obligations imposed by this  
 5 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
 6 otherwise directs.

#### 7 5. DESIGNATING PROTECTED MATERIAL

##### 8 5.1 Exercise of Restraint and Care in Designating Material for Protection.

9 Each Party or non-party that designates information or items for protection under this Order must  
 10 take care to limit any such designation to specific material that qualifies under the appropriate  
 11 standards. A Designating Party must take care to designate for protection only those parts of  
 12 material, documents, items, or oral or written communications that qualify – so that other portions  
 13 of the material, documents, items, or communications for which protection is not warranted are  
 14 not swept unjustifiably within the ambit of this Order.

15 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
 16 shown to be clearly unjustified, or that have been made for an improper purpose (*e.g.*, to  
 17 unnecessarily encumber or retard the case development process, or to impose unnecessary  
 18 expenses and burdens on other parties), expose the Designating Party to sanctions.

19 If it comes to a Party's or a non-party's attention that information or items that it  
 20 designated for protection do not qualify for protection at all, or do not qualify for the level of  
 21 protection initially asserted, that Party or non-party must promptly notify all other parties that it is  
 22 withdrawing the mistaken designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in this  
 24 Order (*see, e.g.*, second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered,  
 25 material that qualifies for protection under this Order must be clearly so designated before the  
 26 material is disclosed or produced.

27 Designation in conformity with this Order requires:

28 (a) For information in documentary form (apart from transcripts of

depositions or other pretrial or trial proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at the top or bottom of each page (as convenient) that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).

A Party or non-party that makes original documents or materials available for inspection need not designate them for protection until after the inspecting Party has indicated which material it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order, then, before producing the specified documents, the Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) at the top or bottom of each page (as convenient) that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).

(b) For testimony given in deposition or in other pretrial or trial proceedings, that the Party or non-party offering or sponsoring the testimony identify on the record, before the close of the deposition, hearing, or other proceeding, all protected testimony, and further specify any portions of the testimony that qualify as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” When it is impractical to identify separately each portion of testimony that is entitled to protection, and when it appears that substantial portions of the testimony may qualify for protection, the Party or non-party that

sponsors, offers, or gives the testimony may invoke on the record (before the deposition or proceeding is concluded) a right to have up to 20 days thereafter to identify the specific portions of the testimony as to which protection is sought and to specify the level of protection being asserted (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"). Only those portions of the testimony that are appropriately designated for protection within the above-described 20 day period shall be covered by the provisions of this Stipulated Protective Order.

Transcript pages containing Protected Material must be separately bound by the court reporter, who must affix to the top of each such page the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," as instructed by the Party or nonparty offering or sponsoring the witness or presenting the testimony.

(c) For information produced in some form other than documentary, and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." If only portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portions, specifying whether they qualify as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." If affixing the "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" legends on non-documentary tangible items would not be reasonably practical (e.g., machinery, facilities, production lines, etc.), then counsel for the Designating Party may make any "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" designations of such items in writing before or during the inspection of such items.

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. If material is appropriately designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –

1 ATTORNEYS' EYES ONLY" after the material was initially produced, the Receiving Party, on  
 2 timely notification of the designation, must make reasonable efforts to assure that the material is  
 3 treated in accordance with the provisions of this Order.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's  
 6 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary  
 7 economic burdens, or a later significant disruption or delay of the litigation, a Party does not  
 8 waive its right to challenge a confidentiality designation by electing not to mount a challenge  
 9 promptly after the original designation is disclosed.

10 6.2 Meet and Confer. A Party that elects to initiate a challenge to a  
 11 Designating Party's confidentiality designation must do so in good faith and must begin the  
 12 process by conferring directly with counsel for the Designating Party. In conferring, the  
 13 challenging Party must explain the basis for its belief that the confidentiality designation was not  
 14 proper and must give the Designating Party an opportunity to review the designated material, to  
 15 reconsider the circumstances, and, if no change in designation is offered, to explain the basis for  
 16 the chosen designation. A challenging Party may proceed to the next stage of the challenge  
 17 process only if it has engaged in this meet and confer process first.

18 6.3 Judicial Intervention. A Party that elects to press a challenge to a  
 19 confidentiality designation after considering the justification offered by the Designating Party  
 20 may file and serve a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule  
 21 79-5, if applicable) that identifies the challenged material and sets forth in detail the basis for the  
 22 challenge. Each such motion must be accompanied by a competent declaration that affirms that  
 23 the movant has complied with the meet and confer requirements imposed in the preceding  
 24 paragraph and that sets forth with specificity the justification for the confidentiality designation  
 25 that was given by the Designating Party in the meet and confer dialogue.

26 The burden of persuasion in any such challenge proceeding shall be on the  
 27 Designating Party. Until the court rules on the challenge, all parties shall continue to afford the  
 28 material in question the level of protection to which it is entitled under the Producing Party's



1 designation.

2 7. ACCESS TO AND USE OF PROTECTED MATERIAL

3 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
 4 disclosed or produced by another Party or by a non-party in connection with this case only for  
 5 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be  
 6 disclosed only to the categories of persons and under the conditions described in this Order.  
 7 When the litigation has been terminated, a Receiving Party must comply with the provisions of  
 8 section 11, below (FINAL DISPOSITION).

9 Protected Material must be stored and maintained by a Receiving Party at a  
 10 location and in a secure manner that ensures that access is limited to the persons authorized under  
 11 this Order.

12 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise  
 13 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may  
 14 disclose any information or item designated CONFIDENTIAL only to:

15 (a) the Receiving Party's Outside Counsel of record in this Action, as well  
 16 as employees of said Counsel to whom it is reasonably necessary to disclose the information for  
 17 this litigation, who are bound by the terms of this order by the signature of their respective  
 18 counsel herein;

19 (b) the officers, directors, and employees (including House Counsel) of the  
 20 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have  
 21 signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

22 (c) Experts (as defined in this Order) of the Receiving Party and their staff  
 23 to whom disclosure is reasonably necessary for this litigation and who have signed the  
 24 "Agreement to Be Bound by Protective Order" (Exhibit A);

25 (d) the Court and its personnel;

26 (e) court reporters, videographers, their staffs, and professional vendors to  
 27 whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement  
 28 to Be Bound by Protective Order" (Exhibit A);



(f) during their depositions, witnesses in the Action to whom disclosure is reasonably necessary and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order;

(g) the author of the document, any indicated recipient of the document, the original source of the information;

(h) any person acting as a neutral in any alternative dispute resolution process, including said neutral's staff, in which the parties jointly participate in connection with this Action;

(i) claims representatives and other employees of liability insurance carriers for any Receiving Party to whom disclosure of Protected Material is reasonably necessary for proper handling of claims arising from the subject matter of the Action, and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A); and,

(j) any other person to whom a party wishes to disclose any material designated as "CONFIDENTIAL" and who has signed the "Agreement to Be Bound By Protective Order" (Exhibit A) upon the written consent of the designating party, which is not to be unreasonably withheld, or upon further order of the court.

7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" only to:

(a) the Receiving Party's Outside Counsel of record in this Action, as well as employees of said Counsel to whom it is reasonably necessary to disclose the information for this litigation, who are bound by the terms of this order by the signature of their respective counsel herein ;

(b) Experts (as defined in this Order) and their staff (1) to whom disclosure is reasonably necessary for this litigation, and (2) who have signed the "Agreement to Be Bound

by Protective Order” (Exhibit A);

(c) the Court and its personnel;

(d) court reporters, videographers, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A);

(e) the author of the document, any indicated recipient of the document, or the original source of the information;

(f) during their deposition, (1) people who are familiar with information, documents, or testimony designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A) and (2) representatives of the party making the “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” designation. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order;

(g) any person acting as a neutral in any alternative dispute resolution process, including said neutral’s staff, in which the parties jointly participate in connection with this Action;

(h) claims representatives and other employees of liability insurance carriers for any Receiving Party to whom disclosure of Protected Material is reasonably necessary for proper handling of claims arising from the subject matter of the Action, and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A); and,

(i) any other person to whom a party wishes to disclose any material designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and who has signed the “Agreement to Be Bound By Protective Order” (Exhibit A) upon the written consent of the designating party, which is not to be unreasonably withheld, or upon further order of the court.

**8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION.**

If a Receiving Party is served with a subpoena or an order issued in other litigation that

1 would compel disclosure of any information or items designated in this Action as  
 2 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” the  
 3 Receiving Party must so notify the Designating Party, in writing (by fax or email, if possible)  
 4 immediately and in no event more than three court days after receiving the subpoena or order.  
 5 Such notification must include a copy of the subpoena or court order.

6 The Receiving Party also must immediately inform in writing the person or entity who  
 7 caused the subpoena or order to issue in the other litigation that some or all the material covered  
 8 by the subpoena or order is the subject of this Protective Order. In addition, the Receiving Party  
 9 must deliver a copy of this Stipulated Protective Order promptly to the person or entity in the  
 10 other action that caused the subpoena or order to issue.

11 The purpose of imposing these duties is to alert the interested parties to the existence of  
 12 this Protective Order and to afford the Designating Party in this case an opportunity to try to  
 13 protect its confidentiality interests in the court from which the subpoena or order issued. The  
 14 Designating Party shall bear the burdens and the expenses of seeking protection in that court of its  
 15 Protected Material – and nothing in these provisions should be construed as authorizing or  
 16 encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

#### 17 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

18 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
 19 Material to any person or in any circumstance not authorized under this Stipulated Protective  
 20 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the  
 21 unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, (c)  
 22 inform the person or persons to whom unauthorized disclosures were made of all the terms of this  
 23 Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to  
 24 Be Bound” that is attached hereto as Exhibit A.

#### 25 10. FILING PROTECTED MATERIAL.

26 10.1 Generally. Without written permission from the Designating Party or a  
 27 court order secured after appropriate notice to all interested persons, a Party may not file in the  
 28 public record in this Action any Protected Material.

10.2 Procedures for Filing Documents Under Seal. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5.

11. FINAL DISPOSITION. Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days after the final termination of this Action, each Receiving Party must return all Protected Material to the Producing Party. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries or any other form of reproducing or capturing any of the Protected Material. With permission in writing from the Designating Party, the Receiving Party may destroy the Protected Material instead of returning it. Whether the Protected Material is returned or destroyed, the Receiving Party, if requested by counsel for another party, must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day deadline that identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and that affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence, expert reports, or attorney work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION), above.

## 12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective

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Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.


IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

|                          |  |
|--------------------------|--|
| DATED: December 22, 2006 | HOPKINS & CARLEY, ALC<br><br>By <u>/s/</u><br>Robert A. Christopher<br>Attorneys for Plaintiff/Defendant/Third Party<br>Plaintiff, Glasforms, Inc.   |
| DATED: December 22, 2006 | CAMPBELL, Warburton,<br>Fitzsimmons, Smith, Mendell &<br>Pastore<br><br>By <u>/s/</u><br>Lisa Jeong Cummins<br>Attorneys for Defendant/Third-Party Defendant,<br>CTG International (North America), Inc. |
| DATED: December 22, 2006 | BAKER & DANIELS, LLP<br><br>By <u>/s/</u><br>David K. Herzog<br>Attorneys for Defendant/Third-Party Defendant<br>Taishan Fiberglass, Inc.  |
| DATED: December 22, 2006 | NOSSAMAN, GUTHNER, KNOX &<br>ELLIOTT, LLP<br><br>By <u>/s/</u><br>Elaine M. O'Neil<br>Attorneys for Plaintiff Dong Ah Tire & Rubber<br>Co., Ltd.   |

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: January 16, 2007

  
United States District Court Judge

## EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on \_\_\_\_\_ [date] in the case entitled "*Dong Ah Tire and Rubber Co., Ltd. v. Glasforms, Inc.*," case number C 06-03359 JF (RS) (which has been consolidated with the case entitled "*Glasforms, Inc. v. CTG International (North America) Inc. et al.*," case number C 06-00213 JF (RS)). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of these consolidated cases.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_  
[signature]